



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during August 2010
DISTRIBUTED: January 3, 2011

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or peter.j.carney@maine.gov for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at <http://www.maine.gov/dep/bep/agenda.htm>.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Asbestos:

EnviroVantage, Inc., Kittery, Maine. EnviroVantage, Inc. ("EnviroVantage") violated the Department's *Asbestos Management Regulations* while conducting an asbestos abatement activity. Specifically, EnviroVantage failed to cover immovable or fixed objects with polyethylene sheeting that is fiber tight prior to the commencement of an abatement activity, EnviroVantage personnel failed to wear clothing under protective suits permanently marked or labeled as "Asbestos Clothing", and EnviroVantage failed to construct a decontamination facility equipped with a shower room. Following Department involvement, EnviroVantage halted activities and corrected the deficiencies before any more work at the site was performed. To resolve the violations, EnviroVantage paid \$3,000.00 as a civil monetary penalty.

Land:

Michael C. Kain and Constance P. Kain, Prospect, Maine. Michael C. Kain and Constance P. Kain ("the Kains") violated the requirements of a Department licensing order pertaining to a residential subdivision lot issued under the *Site Location of Development* law by failing to maintain a buffer strip along a river adjacent to the property, constructing a pathway through the shoreland zone without first submitting to the Department a plan showing the location and width of the trail and failing to submit documentation of IF&W approval of the trail, and clearing more 9,000 square feet of area for a building site which is contrary to the approvals in the licensing order. In addition, the Kains violated Maine's *Natural Resources Protection Act* by constructing a permanent structure, specifically stairs, within 75 feet of a coastal wetland without first obtaining a permit from the Department. Following Department involvement, the Kains submitted a restoration plan to remove the stairs, stabilize disturbed soils, re-establish the buffer strip, and restore vegetation on the lot such that no more than 9,000 square feet is cleared for development. The restoration plan was approved by the Department. To resolve the violations, the Kains will pay \$4,480 as a civil monetary penalty.

Fox Islands Wind, LLC, Vinalhaven, Maine. Fox Islands Wind, LLC ("Fox Islands Wind") violated provisions of a Department licensing order issued under Maine's *Stormwater Management* law by disturbing stormwater buffers required in an earlier license prior to receiving approval to disturb the buffers as requested in a then pending license modification application. In addition, Fox Islands Wind violated Maine's *Natural Resources Protection Act* by displacing soil and removing vegetation in a protected natural resource, specifically a vernal pool, prior to receiving approval to disturb the vernal pool as requested in a then pending license modification application. Following Department involvement, Fox Islands Wind obtained Department approval for disturbing the stormwater buffer and for the vernal pool habitat alteration. To resolve the violations, Fox Islands Wind paid \$3,864 as a civil monetary penalty.



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Karl J. Walz Jr. and Andy Picard Excavating, Arundel, Maine. Karl J. Walz, Jr. ("Walz") and Andy Picard Excavating, Inc. ("Andy Picard Excavating") violated Maine's *Natural Resources Protection Act* by placing fill and removing vegetation or causing fill to be placed and causing vegetation to be removed within 25 feet of a stream without first obtaining a permit from the Department. Specifically, the Department approved a permit by rule to allow filling, grading, and minor vegetation removal no closer than 65 feet to the stream. A Department inspection revealed that fill had been placed and vegetation had been removed with 25 feet of the stream. In addition, Walz and Andy Picard Excavating violated Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing or exposing soil or other earthen materials without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. At the time of the Department inspection, no erosion control measures were installed adjacent to the stream. Following Department involvement, Walz submitted a restoration plan to the Department to restore the disturbed stream buffer. The restoration plan was approved by the Department. To resolve the violations, Walz agreed to complete the approved restoration plan and paid \$1,000 as a civil monetary penalty, and Andy Picard Excavating paid \$920 as a civil monetary penalty.

Woods of Maine, Inc., Bangor, Maine. Woods of Maine, Inc. ("Woods of Maine") violated Maine's *Storm Water Management* law by constructing or causing to be constructed a project that includes on acre or more of disturbed area without first obtaining a permit from the Department, and *Natural Resources Protection Act* by filling or causing to be filled, bulldozing or causing to be bulldozed, or displacing or causing to be displaced soil adjacent to a river, stream, or brook without first obtaining a permit from the Department. Specifically, Woods of Maine disturbed one acre or more of land area while constructing a subdivision and disturbed soil adjacent to a river, stream, or brook for the installation of a sewer manhole. In addition Woods of Maine violated Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing or exposing soil or other earthen materials without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. At the time of a Department inspection, erosion controls were installed at the site but were not sufficient to prevent soil material from eroding beyond the project boundary. Following Department involvement, Woods of Maine applied for after the fact permits pursuant to the *Storm Water Management* law and the *Natural Resources Protection Act* for the unpermitted construction, which were approved by the Department, and temporarily stabilized disturbed areas and completed erosion control measures to the satisfaction of the Department. To resolve the violations, Woods of Maine paid \$5,500 as a civil monetary penalty.

Superior Court Enforcement Resolutions (party followed by location):

State of Maine and Department of Environmental Protection v. Jane M. Freund Trust and David C. Grass, Arundel, Maine. In a Consent Decree and Order entered into by the parties, Jane M. Freund Trust ("Freund") and David C. Grass ("Grass") admitted to violating Maine's *Natural Resources Protection Act* as set forth in the Department's Complaint. The Department asserted in its Complaint that Grass as contractor for Freund displaced soil, vegetation, or other materials in a freshwater wetland without a permit from the Department. Specifically, the Department asserted that approximately 300 feet of freshwater wetland had been crossed with an excavator or other heavy construction equipment. To resolve the matter, Freund and Grass agreed to the entry of a Consent Decree and Order requiring them to restore the affected areas described in the Complaint and pay \$3,000 as a civil monetary penalty.